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PAGE 01 STATE 115050

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INFO OCT-01 EUR-12 IO-13 ISO-00 EB-07 STR-04 TRSE-00

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COMMERCE:HBRATT

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TO AMEMBASSY PARIS

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E.O. 11652: N/A

TAGS: FR, ETRD

SUBJECT: FRENCH RESTRICTIONS ON APPROVAL OF U.S.
TELECOMMUNICATIONS EQUIPMENT FOR USE ON P AND T ADMINIS-
TRATION'S NETWORK

REFS: PARIS 4666, 2/29/73

STATE 189413, 10/17/72

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PAGE 02 STATE 115050

PARIS A-819, 9/18/72

1. COMMERCE OFFICIALS MET APRIL 30 WITH JOHN DOYLE (CODEX CORP., NEWTON, MASS.), WHO DESCRIBED PROBLEM COMPANY IS HAVING WITH FRENCH MINISTRY OF POSTS AND TELECOMMUNICATIONS (P AND T) PROCEDURE REQUIRING ADVANCE APPROVAL FROM P AND T FOR TELECOMMUNICATION EQUIPMENT TO BE CONNECTED TO OFFICIAL TELEGRAPH AND TELEPHONE SYSTEM. CODEX HAD BEEN MARKETING HIGH SPEED DATA COMMUNICATIONS PRODUCTS (MODEMS) IN FRANCE WITH NO PREVIOUS PROBLEMS IN APPROVAL PROCEDURE. NOW IT REPORTS THAT THEIR DISTRIBUTOR DATATEL (32 QUAI ALPHONSE-LE-GALLO, 92100 BOULOGNE) HAS BEEN NOTIFIED OF P AND T APPROVAL BOARD CNET'S REFUSAL EVEN TO CONSIDER CODEX'S MOST TECHNOLOGICALLY ADVANCED NEW PRODUCT (9600 C SERIES OF MODEM) FOR APPROVAL.

2. ACCORDING TO DATATEL, CNET (CENTRE NATIONAL D'ETUDES DES TELECOMMUNICATIONS) APPROVAL PROCEDURE HAS RECENTLY BEEN MADE MORE COMPLEX. WHEREAS PREVIOUSLY CNET WOULD EITHER APPROVE OR DISAPPROVE COMPANY APPLICATION, NOW CNET PRESENTS APPLICATION TO SIX-MAN COMMISSION D'AGREEMENTS, WHICH MUST FIRST AUTHORIZE CNET REVIEW, AND THEN AFTER CNET REVIEW, MUST APPROVE CNET DECISION. SIX-MAN COMMISSION HAS APPARENTLY DISALLOWED CNET REVIEW OF CODEX'S 9600 BITS PER SECOND C SERIES, THOUGH IT HAS APPROVED COMPANY'S 4800 SERIES. ACCORDING TO DOYLE, CODEX 9600 C SERIES IS PRESENTLY RECOGNIZED AS MOST ADVANCED SYSTEM, WHILE 4800 SERIES IS PRODUCED BY MANY EUROPEAN COMPANIES. NO JUSTIFICATION WAS GIVEN FOR THIS DISAPPROVAL, BUT DOYLE SUSPECTS FRENCH COMPANY (TRT - A SUBDIVISION OF PHILLIPS OPERATING IN FRANCE) IS PLANNING TO OFFER COMPETITIVE PRODUCT. CODEX ALREADY HAS CUSTOMERS WAITING IN FRANCE FOR 9600 MODEL AS WELL AS FUTURE OPPORTUNITIES IN EUROPE AND DELAY IN APPROVAL PROCESS WOULD LOSE THESE SALES AS WELL AS FUTURE OPPORTUNITIES.

3. WE UNDERSTAND DATATEL HAS RECENTLY CONTACTED EMBASSY ABOUT THIS PROBLEM AND THAT CODEX VP PAUL ROSENBAUM WAS ALSO EXPECTED TO CONTACT EMBASSY WEEK OF MAY 3. FYI: DOYLE NOTED THAT DATATEL IS SMALL COMPANY DEPENDENT ON P AND T BUSINESS AND MAY TEND TO BE TIMID IN REPRESENTING LIMITED OFFICIAL USE

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PAGE 03 STATE 115050

CODEX WITH P AND T OFFICIALS. END FYI.

4. CODEX IS FAST-GROWING \$26 MILLION COMPANY SPECIALIZING IN HIGH-SPEED COMMUNICATIONS PRODUCTS. IN PAST THREE YEARS IT HAS SOLD OVER 200 PREVIOUS GENERATION 4800 MODELS IN FRANCE FOR APPROXIMATE TOTAL VALUE OF \$1 MILLION. DOYLE ESTIMATES THAT 9600 C SERIES HAS \$1 MILLION ANNUAL SALES POTENTIAL IN FRANCE, WHICH WOULD BE

LOST IF APPROVAL IS WITHHELD. CODEX SEES FRANCE AS IMPORTANT COMMUNICATIONS HUB IN EUROPE AND FORESEES ADDITIONAL LOSSES OUTSIDE OF FRANCE, SINCE OTHER SYSTEMS ARE NOT COMPATIBLE WITH 9600 C SERIES.

5. ON SEVERAL OCCASIONS IN PAST GOF REGULATIONS REQUIRING PRIOR APPROVAL OF TELECOMMUNICATIONS EQUIPMENT HAVE BEEN SUBJECT OF U.S. REPRESENTATIONS. P AND T DECIDED IN 1969 THAT IT WOULD ACCEPT FOR APPROVAL ONLY MATERIAL MANUFACTURED IN FRANCE OR THE EC MEMBER STATES, UNLESS SUCH MATERIAL WAS COVERED BY SPECIAL INTERNATIONAL AGREEMENT OR WAS TECHNOLOGICALLY ADVANCED. IN FEBRUARY 1972, THIS POLICY WAS FORMALIZED BY REGULATION. AT THAT TIME U.S. OWNED FRENCH FIRM HAVING DIFFICULTY IMPORTING TELECOMMUNICATIONS EQUIPMENT REQUESTED EMBASSY ASSISTANCE IN DEALING WITH GOF. AFTER ORAL REPRESENTATIONS TO MFA,

P AND T, AND DREE PROVED UNAVAILING, EMBASSY DELIVERED NOTE (OCTOBER 25, 1972) TO MFA PROTESTING ORIGIN DISCRIMINATION REGULATIONS AS WELL AS PROCEDURAL DELAYS. GOF RESPONDED (IN MFA NOTE OF JAN. 16, 1973) WITH ASSURANCE THAT P AND T WOULD TREAT U.S. EQUIPMENT IN

NON-DISCRIMINATORY MANNER. QUOTE (GOF) WILL TAKE CARE THAT NO DISCRIMINATION IS APPLIED TO THESE (AMERICAN) MATERIALS AND THAT (GOF) WILL BE PARTICULARLY ATTENTIVE TO MAINTAIN PERFECT AGREEMENT BETWEEN ITS REGULATIONS AND INTERNATIONAL AGREEMENTS. END QUOTE. NO FURTHER PROBLEMS HAD BEEN BROUGHT TO ATTENTION OF USG OFFICIALS UNTIL NOW.

6. USG CONTINUES TO MAINTAIN, AS IT DID IN 1972 NOTE, THAT ANY FRENCH ORIGIN REQUIREMENT AND/OR DISCRIMINATORY LIMITED OFFICIAL USE

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PAGE 04 STATE 115050

PROCEDURES ARE INCONSISTENT WITH GATT ARTICLE III:4, WHICH REQUIRES: QUOTE THE PRODUCTS OF THE TERRITORY OF ANY CONTRACTING PARTY IMPORTED INTO THE TERRITORY OF ANY OTHER CONTRACTING PARTY SHALL BE ACCORDED TREATMENT NO LESS FAVORABLE THAN THEIR ACCORDED TO LIKE PRODUCTS OF NATIONAL ORIGIN IN RESPECT OF ALL LAWS, REGULATIONS, AND REQUIREMENTS AFFECTING THEIR INTERNAL SALE, OFFERING FOR SALE, PURCHASE, TRANSPORTATION, DISTRIBUTION OR USE. END QUOTE. USG ALSO MAINTAINS THAT SUCH REQUIREMENTS OR PROCEDURES IMPAIR CONCESSIONS ACHIEVED IN DILLON AND KENNEDY ROUNDS FOR TELECOMMUNICATIONS EQUIPMENT. THOUGH CNET HAS PROVIDED NO JUSTIFICATION FOR REFUSAL TO CONSIDER CODEX APPLICATION, EVIDENCE OF CASE STRONGLY SUGGESTS PREVIOUS DISCRIMINATORY PRACTICES ARE BEING REVIVED.

7. ACTION REQUESTED: IN VIEW OF PREVIOUS US REPRESENTATIONS IN THIS AREA AND SUBSEQUENT WRITTEN FRENCH ASSURANCES DESCRIBED ABOVE, EMBASSY IS REQUESTED AFTER VERIFYING INFORMATION GIVEN ABOVE TO PRESENT AIDE MEMOIRE TO MFA: (1) STATING U.S. POSITION RE GATT ILLEGALITY OF DISCRIMINATORY TREATMENT; (2) CITING PREVIOUS FRENCH ASSURANCES; AND (3) REQUESTING MFA ACT IMMEDIATELY TO SEE THAT DISCRIMINATORY TREATMENT IS TERMINATED. KISSINGER

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